UNITED
NATIONS

CCPR

International covenant
on civil and
political rights

Distr.
GENERAL

CCPR/C/SR.1166
9 October 1992

ENGLISH
Original: FRENCH

HUMAN RIGHTS COMMITTEE

Forty-fifth session

SUMMARY RECORD OF THE 1166th MEETING

Held at the Palais des Nations, Geneva,
on Friday, 24 July 1992, at 10 a.m.

Chairman: Mr. POCAR

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GE.92-16626 (E)

The meeting was called to order at 10.20 a.m.

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT (agenda item 4) (continued)

Draft general comment on article 18 of the International Covenant on Civil and Political Rights (CCPR/C/45/CRP.2) (continued)

1. The CHAIRMAN recalled that the Committee had adopted the first two paragraphs of the draft general comment on article 18 of the Covenant. He invited the Committee to continue consideration of the draft, paragraph by paragraph.

Paragraph 3

2. Mr. EL SHAFEI said he could not understand why the word "distinguishes" was used in the first sentence of paragraph 3, because he could see no distinction whatsoever between freedom of thought, conscience, religion or belief, on the one hand, and freedom to manifest one's religion or belief, on the other. Quite the contrary, he considered them to be two inseparable aspects of a single right which was recognized by article 18 of the Covenant. It was hardly possible for there to be freedom of religion or belief if that freedom could not be manifested.

3. Mr. LALLAH said that he had no objection to the last sentence of paragraph 3, but would like to know on which provision of the Covenant the right mentioned in that sentence was based.

4. Mr. WENNERGREN thought that the right concerned was based on article 19 (1), which stated that "Everyone shall have the right to hold opinions without interference". However, the final sentence of paragraph 3 could perhaps be worded the other way round so as to ensure even broader protection for the right of individuals. The Committee could thus indicate that no State party's authorities could attempt to obtain from an individual revelations about his thoughts or his adherence to a religion or a belief. In other words, no one would be entitled to interrogate an individual about his thoughts or beliefs, for example in connection with a job application.

5. Mr. SADI said that the principle set out in the last sentence might cause a real problem in some societies where, for example, schools had to be informed of a child's religion in order to plan his education; the authorities frequently needed to know a citizen's religion in order to prepare his identity documents; and medical care sometimes had to take into account a patient's religion. States parties could therefore be authorized to request such information when necessary and provided that it did not violate the fundamental rights of individuals.

6. Mrs. HIGGINS, in response both to Mr. Sadi's concern and Mr. Lallah's question, suggested stating that the right of each individual to refuse to reveal his thoughts or his adherence to a religion or belief was based on the

provisions of article 17 of the Covenant, since the right to freedom of thought, religion or belief was clearly a private matter and, in accordance with article 17 (1) of the Covenant, no one should be subjected to "arbitrary or unlawful interference" with his privacy.

7. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) pointed out to Mr. El Shafei that the first sentence of paragraph 3 of the draft general comment had been written precisely in order to take account of the Committee's desire to preserve the distinction, clearly established in article 18 (1) of the Covenant, between the right of everyone to freedom of thought, conscience and religion, on the one hand, and the freedom of everyone to manifest his religion or beliefs, on the other.

8. He had no objection to mentioning article 17 in the last sentence of paragraph 3, although as history had demonstrated that authorities had always sought to force individuals to reveal their thoughts or beliefs, he felt that it was preferable to guarantee the right of each individual to decline to reveal his thoughts or beliefs if he so desired. Furthermore, the right not to be subject to coercion was set out in both article 18 (2) and article 19 (1) of the Covenant.

9. Mr. WENNERGREN said that the penultimate sentence of paragraph 3 of the draft general comment was perhaps redundant, as the opinions which everyone could hold without interference - in accordance with article 19 (1) - of course included opinions based on conscience, religion or belief.

10. Mr. ANDO pointed out that the Working Group had wished to preserve the distinction between freedom of thought, conscience, religion and belief set out in article 18 of the Covenant, and freedom of opinion, which was covered by article 19 (1). It had taken the view that in general individuals formed their opinions on the basis of a certain logic, but that belief or conviction did not derive from such a logical process.

11. In addition, the Working Group had proceeded in the following manner: it had first of all set out the contents of the rights enshrined in article 18, then addressed the question of restrictions affecting manifestations of religion or belief.

12. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) confirmed that it had been the wish of the Working Group, first of all, to preserve the distinction made in article 18 (1) of the Covenant. It had subsequently focused on illustrating the contents of the rights enshrined in article 18, before addressing the question of what restrictions might be imposed by States parties on the exercise of those rights in case of necessity.

13. Mr. PRADO VALLEJO shared the view that the right to freedom of thought, conscience, religion or belief, on the one hand, and the right to manifest one's religion or beliefs, on the other, were two distinct aspects of the right recognized by article 18. He approved the substance of the text of paragraph 3 of the draft, which faithfully reflected article 18 of the Covenant. With

regard to the last sentence of the paragraph, he would like it to be specified that States parties were not entitled to require individuals to indicate, for example on administrative forms, their adherence to a particular religion.

14. Mr. LALLAH thought that it would be useful, in the last sentence of paragraph 3, to refer the reader to article 17 of the Covenant, as in certain cases an individual might be required to state his religion without such a requirement necessarily constituting arbitrary or unlawful interference with his privacy, for example when it was necessary, before the courts of a particular country, either to swear on the Bible (in the case of Christians) or to make a sworn statement (in the case of Muslims).

15. Mr. EL SHAFEI also considered that the last sentence of paragraph 3 needed to be altered in order to make it possible for States parties to request information on the religion of individuals when necessary.

16. Mr. WENNERGREN said that there were some States in which religion and politics were in practice intermingled. The Committee should not conclude that article 17 (1) allowed States parties lawfully to restrict freedom of religion.

17. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that there were circumstances in which a person could be compelled by law to reveal his opinions and in which he would run a risk if he revealed that he held a particular opinion. Such was the case, for example, in Korea if a person was a communist. The right to refuse to divulge one's ideas was part of the right to hold an opinion.

18. Mr. PRADO VALLEJO said that the right not to be compelled to divulge one's religion had been embodied in his country's Constitution since the liberal revolution that had occurred in the countries of Latin America at the beginning of the century. Bloody struggles had been waged precisely in order to win that right, which had been done at heavy cost.

19. Mr. WENNERGREN thought that it was necessary to define the meaning of "interference" within the context of the right set out in article 18, as the term could also have positive aspects. It would perhaps be possible to interpret interference in a positive sense.

20. Mr. LALLAH warned the Committee against the danger of finding itself in contradiction with its remarks in a general comment on another article of the Covenant when it drafted the general comment on article 18. Article 18 (3) concerned the limitations that could apply to freedom to manifest one's religion or beliefs, while article 17 dealt with protection against arbitrary or unlawful interference with a person's privacy, family, home or correspondence. In his view, religion was a private matter, like thought. However, a person could be obliged to divulge his thoughts or beliefs in order to take an oath before testifying in court, when the wording of the oath varied depending on whether a person was an atheist or a believer for example, or in a tax declaration when a

contribution was levied for churches. It was thus desirable to define the meaning of "arbitrary or unlawful interference" if those notions were placed in the context of article 18.

21. Mr. SADI said that there were situations in which a person could be reasonably and not arbitrarily invited to divulge his religion, for example when he was hospitalized: some religions refused blood transfusions, and it was thus normal to ask a person entering hospital to state his religion. It was questionable whether that was interference.

22. Mr. DIMITRIJEVIC suggested that it would be possible to find a solution by mentioning both article 18 (2) and article 17 of the Covenant. He proposed the following wording: "In accordance with article 18 (2) and article 17, no one can be compelled to reveal their thoughts or adherence to a religion or belief."

23. Mr. SADI endorsed the proposal.

24. The CHAIRMAN invited the Committee to adopt paragraph 3 of the general comment as amended.

25. Paragraph 3 of the general comment, as amended, was adopted.

Paragraph 4

26. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) pointed out that, at the end of the fourth sentence, the words "and days of rest" should be added after the word "holidays" in order to cover the various possibilities.

27. Mr. SADI said, with regard to the building of places of worship mentioned in the fourth sentence, that it would be desirable to indicate the need to avoid rivalry or provocation in the choice of the sites for such structures. In his country, for example, if there was a mosque in a particular place, the Christians would choose to build a church opposite it and vice versa. The same remark applied to the wearing of clothing in accordance with religious practice, mentioned in the fifth sentence. He wondered whether it would be possible to find wording to express the idea that the various practices should not constitute provocation.

28. Mr. WENNERGREN said that the second sentence of paragraph 4 of the draft comment spoke of "means of giving expression to religion or belief", whereas article 18 of the Covenant referred rather to ways of expressing it. A distinction should be made between the two notions.

29. Miss CHANET pointed out that paragraph 4 provided a definition of the "concept of worship" as well as examples illustrating the observance of religion. Perhaps that was an appropriate point at which to indicate that observance not only included ceremonial acts, respect for dietary regulations and the wearing of distinctive clothing, but also precluded acts that would be

contrary to articles 6 and 7 of the Covenant, such as for example human sacrifice and mutilation. In other words, everything mentioned was possible in so far as it did not violate any other articles of the Covenant.

30. Mrs. HIGGINS said that the purpose of paragraph 4 was to specify the meaning of freedom to manifest one's religion or beliefs, in other words, what that freedom comprised. It was necessary to begin by listing the features that required protection before addressing the question of the restrictions which the State could lawfully impose. In that connection, it would be sufficient to state that the only admissible restrictions were those authorized by article 18 (3).

31. She also endorsed Mr. Sadi's remarks on the siting of certain religious buildings; she had in mind in particular the project to set up a Carmelite convent at the entrance to the former Auschwitz concentration camp.

32. Mr. EL SHAFEI said that the contents of the second sentence could more appropriately be placed at the end of the paragraph. He shared Mrs. Higgins' opinion that paragraph 4 concerned the aspect of the freedom that required protection. The limitations or restrictions affecting that freedom were covered by paragraphs 9 and 10 of the text. It was preferable not to mention them in paragraph 4.

33. Mr. ANDO suggested that the second sentence should be placed between square brackets pending a decision as to whether to retain or delete it.

34. Miss CHANET said she had no objection to the suggestion made by Mrs. Higgins and Mr. El Shafei that the restrictions she had mentioned should appear in paragraphs 9 and 10 of the general comment. In her view, the reason why they could more appropriately be included in paragraph 4 was that they were not the same as the restrictions authorized by article 18 (3) to protect public order or safety. The point was to make it clear that mutilation or human sacrifice were not authorized as part of the religious observance mentioned in article 18 (1).

35. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that the second sentence of the paragraph was in a way a continuation of the first, although it could be deleted. With regard to the overall structure of the paragraph, Mrs. Higgins had rightly pointed out that it concerned all the ways of manifesting one's religion or beliefs; however, it was difficult to list every one of them. As for the restrictions that could apply to the right protected by article 18, they were of two sorts: those inherent in the Covenant and those which a State could impose depending on circumstances. The former were dealt with in paragraph 7 of the general comment, which would be an appropriate place to incorporate Miss Chanet's proposal. The text of paragraph 7 mentioned article 20, but it would be possible to mention other articles of the Covenant.

36. The CHAIRMAN asked whether the members of the Committee wished to delete the second sentence of paragraph 4.

37. Mr. LALLAH thought that the deletion of the second sentence would lend greater weight to the first.

38. The CHAIRMAN said that the second sentence would be deleted.

39. Mr. SADI suggested replacing the word "appoint" in the sixth sentence by "choose".

40. Mr. WENNERGREN thought that the sixth sentence should also refer to the freedom of parents to bring up their children in the religion of their choice, even though that liberty was dealt with in paragraph 8.

41. Mr. PRADO VALLEJO proposed adding the words "in particular" after the words "such as" in the last sentence of the paragraph and before the examples given, as the list was not exhaustive. That part of the sentence would thus read: "... acts integral ..., such as, in particular, the freedom ...".

42. The CHAIRMAN endorsed that proposal and pointed out that it would also take Mr. Wennergren's proposal into account as it would imply that the list of examples was not exhaustive.

43. Mr. Prado Vallejo's proposal was adopted.

44. Mr. HERNDL said that, having closely followed the debate on paragraph 4, he wished to return to the question of the need to specify in one way or another that the freedom to manifest one's religion was not an absolute and inalienable right but that it could be restricted, in line with the idea expressed by Miss Chanet. It would perhaps be possible to refer in the text to article 18 (3), or to indicate that the restrictions would be mentioned further on in the general comment.

45. Mrs. HIGGINS suggested that, if the Committee were to refer in that paragraph to any restrictions on the right to manifest one's religion, it could add a sentence such as the following to the end of the paragraph: "The circumstances and extent to which these manifestations may be restricted are commented on in paragraph ... below."

46. Mr. LALLAH pointed out that it was not so much a question of drafting as one of substance. The paragraph dealt with manifestations of religion, then with observance and practices, and lastly with practice and teaching. Miss Chanet's remark did not concern those restrictions that could apply to the freedom to manifest one's religion but to the very substance of religious observance, which could involve the denial of other rights contained in the Covenant, extreme examples being mutilation and human sacrifice. It was true that article 18 said absolutely nothing in that respect, but that was no reason for the Committee to elude the problem.

47. Miss CHANET said that such was indeed her intention. Her concern was not with the limitations and restrictions resulting from the application of article 18 (3), which were dealt with in paragraphs 7 and 9 of the draft, but

with the very essence of worship. As the Committee had set out to define what constituted observance, it could not disregard negative aspects and content itself with stating that observance covered a broad range of acts. It should also mention those acts that violated other rights in the Covenant. In short, it should state that freedom to manifest one's religion covered a broad range of acts which could not, however, be contrary to the Covenant.

48. Mrs. HIGGINS said she was unable to concur with such an opinion, which was tantamount to allowing the authorities of a State freedom to choose which manifestations of religion should be guaranteed. That was a very dangerous path. Many cultures considered certain aspects of the religious beliefs of other cultures unacceptable. It was obviously necessary for the Committee to ensure that there was no violation of other rights protected by the Covenant, but provision was actually made for that in paragraph 7 of the general comment. Such restrictions as could be imposed on the freedom to manifest one's religion were duly dealt with in paragraph 9. A strict application of article 18 (3) was sufficient, and it was not the Committee's responsibility to decide what should constitute a manifestation of religion. She resolutely opposed the idea that States could have complete latitude to decide what was and what was not a genuine religious belief. The contents of a religion should be defined by the worshippers themselves; as for manifestations, article 18 (3) existed to prevent them from violating the rights of others.

49. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said he continued to take the view that the second sentence, which the Committee had just decided to delete, was not without importance, and that if it were possible to attach it to the first sentence in a different wording, the text would be improved. The Committee had now realized the difficulty which arose from the fact that there could be situations in which the authorities or the majority of the population decided not to recognize a religious group as such, thereby compelling it to worship in secret. Another member of the Committee, for example Mrs. Higgins, could perhaps propose a different wording for the second sentence.

50. In order to take into account the position of those who considered it necessary to indicate, in paragraph 4, that it was legitimate in certain circumstances to restrict not a religion, but its manifestations, the following sentence might be added to the end of that paragraph: "The freedom to manifest one's religion or belief is restricted only by respect for other rights in the Covenant and by possible limitations imposed in accordance with article 18 (3)."

51. Mr. LALLAH found the sentence satisfactory, although he suggested the following slight amendment: "... and by permissible limitations in accordance with article 18 (3)".

52. Miss CHANET thanked Mr. Dimitrijevic for endeavouring to take her position into account. There were clearly two opposing opinions. If one were to take Mrs. Higgins' view, the Committee would define all forms of religious manifestation without specifying any restriction concerning acts of worship and would thus not take any position as to what could or could not constitute such

acts. The only restriction would be that contained in article 18 (3), which left it up to the State to impose restrictions through legislation and for specific reasons: to protect public safety, order, health, or morals or the fundamental rights and freedoms of others. Assuming that a State did not legislate to restrict a practice such as, for example, human sacrifice on the basis of article 18 (1), there was no legal foundation on which the Committee could base itself to draw the State's attention to the fact that the forms of worship concerned by article 18 (1) had to be restricted when they involved a violation of the other articles of the Covenant. Paragraph 3 gave States the possibility of legislating, but did not make it mandatory to do so.

53. Mr. NDIAYE said that the idea which Miss Chanet wished to add to paragraph 4 applied to all the provisions of the Covenant; an article could never be interpreted in isolation, and each of them had to be implemented on the basis of respect for the others. Whether or not the Committee indicated that religious observance and practice should in no circumstances entail a violation of the provisions of the Covenant changed nothing, as that went without saying. Article 18 (3) authorized States to restrict practices for a precise purpose in response to that concern. Any form of worship involving mutilation would not be in compliance with "public health", and other practices that might come to mind would not be in compliance with "morals". If the Committee directed itself to the State, it was because it was the State that reported to it.

54. Mr. WENNERGREN said it was possible to take account of Miss Chanet's concern by referring to article 5 (1) of the Covenant which stated that none of its provisions "may be interpreted as implying for any State, group or person any right to ... perform any act aimed at the destruction of any of the rights and freedoms recognized ... in the ... Covenant". It thus followed that freedom of religion gave no one the right to practise, for example, human sacrifice, as that was a violaton of article 6 of the Covenant.

55. Mr. EL SHAFEI thought that the best way of settling the problem was to add the sentence proposed by Mr. Dimitrijevic to the end of paragraph 4. Returning to the question of the second sentence, he said that the Committee should maintain its decision to delete the sentence.

56. Mrs. HIGGINS proposed a new wording for the second sentence which had been deleted. The new sentence could be the following: "Religious or other belief is manifested in diverse ways, and the authorities may not choose among these as to which to guarantee."

57. Mr. EL SHAFEI objected to so general a wording, which would totally nullify paragraph 9. He maintained that the Committee had had good reason to delete the second sentence.

58. Mr. LALLAH said he was also opposed to the new sentence, which went much further in terms of substance than the initital second sentence had done.

59. Mrs. HIGGINS said that she had only suggested the new sentence because Mr. Dimitrijevic had invited her to do so, and that she could perfectly well accept the deletion of the second sentence.

60. The CHAIRMAN took it that the Committee did not wish to insert a new second sentence. If there was no objection, he took it that the deletion of the second sentence previously decided upon was confirmed.

61. It was so decided.

62. The CHAIRMAN reminded the Committee that Mr. Dimitrijevic's proposal, which seemed to resolve all the problems, still had to be adopted.

63. At the request of the CHAIRMAN, Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) again read out the sentence he proposed to add to paragraph 4 ("The freedom to manifest one's religion or belief is restricted only by respect for other rights in the Covenant and by possible limitations imposed in accordance with article 18 (3)").

64. Mr. NDIAYE said he felt uneasy about the notion of restriction or limitation, as it implied that the right might initially give rise to violations of other rights - for example to mutilation. However, in no case could freedom of religion include such practices, and the idea of restriction was fundamentally false.

65. Mrs. HIGGINS maintained her view that it was not the Committee's responsibility to decide whether mutilation, to take the example frequently cited in the debate, could or could not be considered as an essential element of the freedom to manifest one's religion. The limitations had to be consistent with article 18 (3).

66. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that the sentence he proposed to add to the end of the paragraph would only acquire full significance when the Committee had discussed the other paragraphs. He suggested that it should be adopted provisionally and placed between square brackets, and that the Committee should re-examine it after considering the rest of the general comment.

67. It was so decided.

68. Paragraph 4, as orally amended and subject to the subsequent insertion of a last sentence, was adopted.

Paragraph 5

69. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) suggested adding article 17 to the articles of the Covenant listed in the first sentence. In the following sentence, the words "thus, for example" had unfortunately been placed after the first phrase and should appear at the beginning of the sentence.

70. Mr. MÜLLERSON said that the paragraph, which addressed the links between article 18 and other articles of the Covenant, was too obscure. It was indeed important to mention article 17, but it was also necessary to state that the rights enshrined in article 18 were also protected by a series of other articles of the Covenant. Accordingly, it would be appropriate to refer, in the second sentence, not only to articles 19 and 22, but also to article 20 (2) and articles 21, 26 and 27. Violations of those articles were likely to entail violations of article 18. Moreover, it was as important to refer to article 21 as to article 22 of the Covenant. Thus, the paragraph should be further expanded.

71. Mr. PRADO VALLEJO said that, having carefully read the paragraph, he had come to the conclusion that it did not really introduce any new elements and was of scant interest. He therefore suggested that it should be deleted.

72. Miss CHANET fully endorsed Mr. Prado Vallejo's view. It would be necessary to cite a number of other rights set out in the Covenant and further to expand the paragraph. Since it was of little value as it stood, it was preferable to delete it.

73. Mr. MÜLLERSON endorsed the proposal, although he did not wish that solution to set a precedent for the other general comments, and in particular for the general comment on article 25. In the circumstances, however, he did not feel that it was appropriate to retain the paragraph.

74. The CHAIRMAN took it that the Committee as a whole was in favour of deleting paragraph 5.

75. It was so decided.

Paragraph 6

76. Mr. EL SHAFEI noted that the paragraph set out a multitude of ideas, most of which were contained in the first two sentences. With regard to the penultimate sentence, however, he was of the view that "Policies or practices that restrict access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant" raised issues that related not to the provisions of article 18 (2), but to article 26 of the Covenant, on the prohibition of discrimination.

77. Mr. MÜLLERSON found the meaning of the penultimate sentence, and in particular the words "intended for the same purposes" obscure. He inquired what purposes were concerned.

78. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said that the purposes were clarified in the previous sentence. Regarding the problem raised by Mr. El Shafei, he pointed out that the decisive factor was the meaning given to the word "coercion". If it simply meant physical coercion, then Mr. El Shafei was right, and the restrictions set out in the penultimate sentence raised only a problem of discrimination. Frequently,

however, discrimination was merely a matter of putting certain persons in a position of inferiority, whereas, for example, obliging believers or non-believers to adhere to beliefs or to convert involved exercising coercion against them. Children who were not entitled to attend school because their parents adhered to a different religion from that practised in the school were subject to coercion. There were many types of punishment, other than physical violence, that could nevertheless be viewed as coercion. However, if the members of the Committee took the view that the word "coercion" related only to physical coercion, the penultimate sentence had no place in the paragraph under consideration, and should appear in that part of the general comment relating to the prohibition of discrimination.

79. Mr. SADI considered that the penultimate sentence gave rise to confusion and was not really necessary. It would thus be preferable to delete it.

80. Mr. WENNERGREN also queried the penultimate sentence, which he considered to be too broad in scope. In the case of restrictive policies or practices concerning access to certain jobs, for example, he felt that freedom to manifest one's religion could indeed be incompatible with certain occupations. For instance, one could imagine that a person who had to stop work every hour to pray was unlikely to be suitable for a supervisory job requiring constant presence and attention. Furthermore, such a situation did not involve a problem of coercion in the strict sense of the word.

81. Mr. EL SHAFEI thought that it would be possible to maintain the penultimate sentence but that it should be incorporated in another paragraph, such as paragraph 10, for example. It was important to mention discrimination based on religion, but paragraph 6 concerned coercion.

82. Mrs. HIGGINS said she was extremely reluctant to delete the penultimate sentence, as history was replete with examples of coercion such as that referred to, and the Committee should clearly state that the provisions of article 18 categorically prohibited any coercion that might violate the right to have or to adopt a religion or belief. In her view, it would be preferable to retain the penultimate sentence and to deal with the question of discrimination in another paragraph.

83. Mr. ANDO concurred with Mrs. Higgins. The penultimate sentence referred to article 18 (2), which concerned an essential feature of the freedom protected under that provision of the Covenant. It was extremely important to prevent coercion, and for that reason the penultimate sentence should be maintained and the question of discrimination addressed elsewhere.

84. Mr. LALLAH endorsed Mr. El Shafei's view that it was important to raise the question of discrimination in one paragraph or other of the general comment. However, he thought that the penultimate sentence of paragraph 6 was necessary.

85. In reply to the question raised by Mr. Dimitrijevic on the meaning of the word "coercion", he said that in his view coercion was not merely physical. It could also consist in any measure likely to violate the right to have or adopt a

religion or belief, in other words any measure likely to totally deprive an individual of his freedom in that respect. As an illustration, he cited his own country, Mauritius, where at one time it had been fashionable to consider Christianity superior to other religions and to relegate pagans to the back bench. Schools had been administered by representatives of the Roman Catholic Church, and children had been accepted in schools only if they were prepared to observe the precepts of that religion. That was clearly a form of coercion. Accordingly, he wished to maintain the penultimate sentence, and to add a passage on discrimination elsewhere in the text.

86. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) endorsed Mr. Lallah's remarks, which reflected his own understanding of the word "coercion". He wished to bring another factor into the debate: it was true that the contents of the penultimate sentence were analogous to the question of discrimination, but it should be realized that most of the time discrimination was not an end in itself, in contrast with coercion. For example, in the case of racial discrimination, it was not possible to tell a black person that if he changed race he would no longer suffer discrimination. That was simply impossible, whereas coercion could be exercised against a person by telling him, for example, that if he adhered to a particular belief, he could become a public employee or send his children to a particular school, etc. He agreed that the idea expressed in the penultimate sentence could certainly be better expressed.

87. Mr. WENNERGREN suggested adding the concept of restriction by means of coercion to the penultimate sentence. Access to education, employment, etc., could be restricted in so many different ways that it should be specified that it was the use of coercion that was incompatible with article 18 (2).

88. Mr. MÜLLERSON said that the meaning of the penultimate sentence had now become clear to him, and he endorsed the remarks made by Mr. Lallah and Mr. Dimitrijevic. He also thought that coercion was not merely physical. However, the idea was perhaps not well expressed, and the wording could possibly be improved. Moreover, it would perhaps be more judicious to mention, in the penultimate sentence, the "purposes" of the "policies" and "practices" by again listing the various elements that appeared in the previous sentence (impairing the right to have or adopt a religion or belief, etc.).

89. Mr. SADI said that, if the penultimate sentence were retained, it would be insufficient to mention only education, medical care and employment; it would also be necessary to enumerate other areas, which would make for a long list. Accordingly, it would be preferable to draft the passage in more general terms, without mentioning any specific area.

90. The CHAIRMAN proposed the following wording for the penultimate sentence: "Policies and practices intended for the same purposes, such as, for example, those restricting access to education, medical care and employment or the rights guaranteed by article 25 and other provisions of the Covenant, are similarly inconsistent with article 18 (2)."

91. Mr. EL SHAFEI said that he was satisfied by the sentence proposed by the Chairman, and suggested addressing the question of discrimination in paragraph 10.

92. Furthermore, for the sake of greater clarity, he suggested inserting after the words "Article 18 (2) bars coercion" the examples of coercion contained in the second sentence.

93. Mr. SADI thought that in the English text the verb "intended" was ill-chosen, as no State would admit that its legislation was designed to achieve any unlawful purpose.

94. Mrs. HIGGINS proposed the following new penultimate sentence: "Policies or practices having the same intention or effect that restrict access to education, medical care, employment or the rights guaranteed by article 25 and other provisions of the Covenant are similarly inconsistent with article 18 (2)".

95. Mr. WENNERGREN suggested it should be made clear that the reference was to compulsory policies or practices, so as to establish a link between the penultimate sentence and the previous sentence.

96. Mr. DIMITRIJEVIC (Chairman/Rapporteur of the Working Group under Article 40) said he fully subscribed to Mrs. Higgins' proposal but opposed Mr. Wennergren's, as he felt it might give the impression that the Committee was referring solely to physical coercion.

97. The CHAIRMAN said he believed that the Committee as a whole wished to maintain paragraph 6 as it stood, with the exception of the penultimate sentence which should be reworded in accordance with Mrs. Higgins' proposal.

98. It was so decided.

99. Paragraph 6, as orally amended, was adopted.

The meeting rose at 1.05 p.m.